

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.5386 OF 2015

Lata w/o Murlidhar Mokale,
Age 52 years, Occu. Household,
R/o N-13, D-Sector, Bharatnagar,
HUDCO, Aurangabad

..Applicant

Versus

1. The State of Maharashtra
2. The Police Inspector,
Begumpura Police Station,
Aurangabad, Dist.Aurangabad

..Respondents

Mr E.G. Irale, and Mr S.W. Munde, Advocates for applicant
Mr S.N. Morampalle, A.P.P. for respondents

- WITH -

CRIMINAL APPLICATION NO.5250 OF 2015

Dr.Alok s/o Shivajirao Gadekar,
Age 40 years, Occu. Medical
Practitioner, R/o N-11, HUDCO,
Near Power House, Aurangabad
Taluka and District Aurangabad

..Applicant

Versus

The State of Maharashtra,
through Police Station, Begumpura,
Taluka and District Aurangabad

..Respondent

Mr R.J. Nirmal, Advocate h/f Mr S.S. Tope, Advocate for applicant
Mr S.N. Morampalle, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 15th October 2015

PER COURT

1. Heard learned Counsel for the applicants and learned A.P.P. for State.

2. The applicant - Lata, the mother of main accused Ajay, aged about 52 years was booked in Crime No.I-111/2015 registered at Begumpura Police Station, Aurangabad for offences punishable under Sections 376, 313, 504, 506 read with Section 34 of the Indian Penal Code, for the incident of the same date.

3. The accusations against the applicant - Lata are that she has threatened the victim Maya and was asked to leave her home though her son had established physical relationship with her, resulted into carrying out pregnancy which was subsequently terminated by the applicant Doctor who has moved Criminal Application No.5250 of 2015.

4. Learned Counsel for the applicants in both the applications would urge that perusal of the first information report depicts that there was a consent by the complaint as regards the sexual relationship and even if the said consent is conditional, still the fact remains that first information report came to be lodged on 21st August 2015 for the alleged termination of pregnancy on 28th May 2015.

5. Learned A.P.P. while opposing the applications, would urge that the victim Maya in first information report, in clear terms has stated that the main accused Ajay has promised to marry her resulting into permitting to establish physical relationship with him. He would further urge that the mother of the applicant namely Lata was having knowledge of entire incident and she initially promised Maya about

performing marriage with her son Ajay upon condition that she shall terminate the pregnancy. After termination of pregnancy, Lata refused to marry son Ajay with the victim Maya.

6. Upon perusal of the investigation papers and other material that is placed before this Court, the fact remains that victim Maya is a major, as she extended consent for physical relationship, may be on condition of marriage, however, the applicant Lata or Dr. Gadekar in whose hospital the pregnancy was terminated on 28th May 2015 cannot be held responsible for the act of commission of crime in question, particularly having regard to the age and conduct of the victim. The delay in lodging of first information report from the date of termination of pregnancy i.e. 28th May 2015 is also not explained. Leave apart, the fact that the complainant victim remained mum for a period of about three months before lodging of first information report.

7. In view thereof, both the applicants are entitled for bail. Hence, I proceed to pass following order.

8. In the event of their arrest in connection with Crime No.I-111/2015 registered at Begumpura Police Station, Aurangabad for offences punishable under Sections 376, 313, 504, 506 read with Section 34 of the Indian Penal Code, the applicants Lata wife of Murlidhar Mokale and Dr. Alok Shivajirao Gadekar be released on bail, upon furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty thousand) along with one surety in the like amount, by each of them.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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